## REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. Claims 1-23 were originally presented. Claims 6, 8, 9, 11, and 15 (having been allowed in the parent case) were canceled by preliminary amendment. Claims 1-5, 7, 10, 12-14, and 16-23 remain in the application. By this amendment, Claim 14 has been amended. No new matter has been added.

The following remarks address each and every grounds of objection and rejection presented in the pending Office Action.

**Claim Objections**

Claim 14 was objected to for having no antecedent basis for the term "continuous belt." The Applicant has amended claim 14 to use the term "endless belt," and respectfully submits that this eliminates the noted antecedent basis problem. The Applicant thus requests that this objection be withdrawn.

**Claim Rejections**

In the pending Office Action, claims 1-5, 7, 10, 12-14, 16-20, 22 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nagayama in view of Wayman et al. The following discussion will focus on independent claims 1, 22, and 23.

The Applicant respectfully submits that the cited references disclose different structure with different function than the claimed invention. Independent Claims 1, 22, and 23 were previously amended to clarify that the length of the belt adjacent the print path is "selectively adjustable within a range." Nagayama does not disclose such structure. Nagayama discloses two embodiments of a system wherein a position of a belt is adjustable. In Nagayama FIGs. 3 and 4 and in FIG. 8, two embodiments are shown wherein the belt is adjustable to only two positions. There is no suggestion that the belt position can be varied *between* the two positions. This is consistent with the stated intent of Nagayama, which is to provide a system with two configurations, one for fusing black and white prints, and another for fusing color prints.

However, this structure is distinctly different from the structure claimed by the Applicant. The Applicant's disclosure clearly discloses that the belt position is adjustable

within a range. The specification states that the belt can take any one of a variety of positions, p. 6 ln. 3, and that the belt has "several different positions." P. 6 ln. 21-22. It states that the belt structure can take any of several "discrete" positions, p. 6 ln. 25, and that it can take "positions . . . between" its maximum energy and minimum energy positions. P. 7 ln. 23. Even if the two belt positions of Nagayama were interpreted to define a range, the position of the belt is not adjustable *within* that range. Instead, the belt can only be positioned at endpoints of the range. This is not the same as being adjustable *within* a range. The Applicant respectfully submits that a belt that is moveable between only two points cannot be said to be adjustable *within* a range.

The Wayman reference likewise fails to disclose a belt having a length adjacent a print path that is "selectively adjustable within a range." Two embodiments of the invention of Wayman are shown (FIG. 1 and FIG. 2). The belt position is different in these two embodiments. However, there is no suggestion in Wayman of a single embodiment that is configured with a belt position that varies between two positions. Furthermore, variability between two positions still would not provide adjustability within a range, as claimed by the Applicant, for the reasons given above.

Moreover, the Wayman reference discloses variable heating of a belt: "the power source 78 is designed to supply variable power to the pre stripping segment 72 . . . such that the toner images are subjected to various stripping temperatures for the purpose of varying the image gloss of the final print." Co.. 6 ln. 28-32. The Applicant's own disclosure notes that adjusting the temperature of heating elements, belts, etc. is a known method of controlling image gloss. See p. 2 ln. 2-9. However, these methods have drawbacks that are discussed in the Applicant's disclosure. These drawbacks are part of the reason for the present invention.

Finally, a device that combined the features and teachings of Nagayama and Wayman would not provide the structure and function of the Applicant's invention. Such a combination could provide a device having a belt that is moveable between two and only two positions (Nagayama), and which could be subject to different levels of heating by providing more or less energy to a belt (Wayman). This structure and function are both different than the claimed invention.

In sum, the Applicant submits that the cited references, taken separately or together, do not teach or suggest all elements of independent claims 1, 22, and 23. The cited

references do not teach the same structure, and the structure that they do teach has different function. Accordingly, the Applicant respectfully submits that independent claims 1, 22, and 23 are allowable over these references, and the remaining claims should be allowed as being dependent upon allowable base claims.

The Examiner also rejected claim 21 under 35 U.S.C. 103(a) as being unpatentable over Nagayama in view of Wayman et al. and further in view of Yoneda et al. The Applicant respectfully submits that claim 21 is allowable as being dependent upon an allowable base claim, for the reasons given above, and respectfully requests that this rejection be withdrawn.

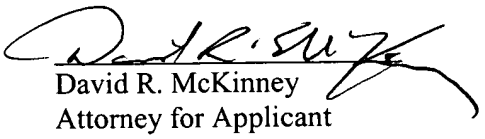
## CONCLUSION

In view of the foregoing, the Applicant respectfully requests that the Examiner withdraw the rejections and allow claims 1-5, 7, 10, 12-14, and 16-23 to pass to issuance. If any issues arise that could be resolved during a telephone interview, the Examiner is invited to telephone the undersigned attorney, or Vaughn W. North at (801) 566-6633, so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 08-2025

Dated this 1st day of June, 2004.

Respectfully submitted,



David R. McKinney
Attorney for Applicant
Registration No. 42,868

THORPE NORTH & WESTERN, LLP
8180 South 700 East, Suite 200
Sandy, Utah 84070
(801) 566-6633

On behalf of:

HEWLETT-PACKARD COMPANY